

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing  
5 Sections 3-144.2, 3-148, and 4-139 and by adding Section  
6 4-138.10 as follows:

7 (40 ILCS 5/3-144.2) (from Ch. 108 1/2, par. 3-144.2)

8 Sec. 3-144.2. Mistake in benefit.

9 (a) If the Fund mistakenly sets any benefit at an incorrect  
10 amount, it shall recalculate the benefit as soon as may be  
11 practicable after the mistake is discovered.

12 (b) If the benefit was mistakenly set too low, the Fund  
13 shall make a lump sum payment to the recipient of an amount  
14 equal to the difference between the benefits that should have  
15 been paid and those actually paid, plus interest at the  
16 prescribed rate from the date the unpaid amounts accrued to the  
17 date of payment.

18 (c) If the benefit was mistakenly set too high, the Fund  
19 may recover the amount overpaid from the recipient thereof,  
20 including interest at the prescribed rate from the date of  
21 overpayment to the date of recovery, either directly or by  
22 deducting such amount from the remaining benefits payable to  
23 the recipient. If the overpayment is recovered by deductions

1 from the remaining benefits payable to the recipient, the  
2 monthly deduction shall not exceed 10% of the corrected monthly  
3 benefit amount, unless otherwise agreed to by the recipient of  
4 the benefit.

5 However, if (i) the amount of the benefit was mistakenly  
6 set too high, and (ii) the error was undiscovered for 3 years  
7 or longer, and (iii) the error was not the result of incorrect  
8 information supplied by the affected participant or  
9 beneficiary, then upon discovery of the mistake the benefit  
10 shall be adjusted to the correct level, but the recipient of  
11 the benefit need not repay to the Fund the excess amounts  
12 received in error.

13 (d) In the event of any conflict between this Section and  
14 the Administrative Review Law, including but not limited to any  
15 period established under that Law having the effect of limiting  
16 the time in which a mistake in benefit may be corrected, this  
17 Section is intended to control.

18 ~~The amount of any overpayment, due to fraud,~~  
19 ~~misrepresentation or error, of any pension or benefit granted~~  
20 ~~under this Article may be deducted from future payments to the~~  
21 ~~recipient of such pension or benefit.~~

22 (Source: P.A. 82-623.)

23 (40 ILCS 5/3-148) (from Ch. 108 1/2, par. 3-148)

24 Sec. 3-148. Administrative review. Except as provided in  
25 Section 3-144.2, pertaining to the correction of mistakes in

1 benefits, the ~~The~~ provisions of the Administrative Review Law,  
2 and all amendments and modifications thereof and the rules  
3 adopted pursuant thereto, shall apply to and govern all  
4 proceedings for the judicial review of final administrative  
5 decisions of the retirement board provided for under this  
6 Article. The term "administrative decision" is as defined in  
7 Section 3-101 of the Code of Civil Procedure.

8 (Source: P.A. 82-783.)

9 (40 ILCS 5/4-138.10 new)

10 Sec. 4-138.10. Mistake in benefit.

11 (a) If the Fund mistakenly sets any benefit at an incorrect  
12 amount, it shall recalculate the benefit as soon as may be  
13 practicable after the mistake is discovered.

14 (b) If the benefit was mistakenly set too low, the Fund  
15 shall make a lump sum payment to the recipient of an amount  
16 equal to the difference between the benefits that should have  
17 been paid and those actually paid, plus interest at the  
18 prescribed rate from the date the unpaid amounts accrued to the  
19 date of payment.

20 (c) If the benefit was mistakenly set too high, the Fund  
21 may recover the amount overpaid from the recipient thereof,  
22 including interest at the prescribed rate from the date of  
23 overpayment to the date of recovery, either directly or by  
24 deducting such amount from the remaining benefits payable to  
25 the recipient. If the overpayment is recovered by deductions

1 from the remaining benefits payable to the recipient, the  
2 monthly deduction shall not exceed 10% of the corrected monthly  
3 benefit amount, unless otherwise agreed to by the recipient of  
4 the benefit.

5 However, if (i) the amount of the benefit was mistakenly  
6 set too high, and (ii) the error was undiscovered for 3 years  
7 or longer, and (iii) the error was not the result of incorrect  
8 information supplied by the affected participant or  
9 beneficiary, then upon discovery of the mistake the benefit  
10 shall be adjusted to the correct level, but the recipient of  
11 the benefit need not repay to the Fund the excess amounts  
12 received in error.

13 (d) In the event of any conflict between this Section and  
14 the Administrative Review Law, including but not limited to any  
15 period established under that Law having the effect of limiting  
16 the time in which a mistake in benefit may be corrected, this  
17 Section is intended to control.

18 (40 ILCS 5/4-139) (from Ch. 108 1/2, par. 4-139)

19 Sec. 4-139. Administrative review. Except as provided in  
20 Section 4-138.10, pertaining to the correction of mistakes in  
21 benefits, the ~~The~~ provisions of the Administrative Review Law,  
22 and all amendments and modifications thereof and the rules  
23 adopted pursuant thereto, shall apply to and govern all  
24 proceedings for the judicial review of final administrative  
25 decisions of the retirement board provided for under this

1 Article. The term "administrative decision" is as defined in  
2 Section 3-101 of the Code of Civil Procedure.

3 (Source: P.A. 82-783.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.